

Appeal from decisions of the Alaska State Office, Bureau of Land Management, declaring four placer mining claims abandoned and void. F 59417 through F 59420.

Affirmed as modified.

1. Federal Land Policy and Management Act of 1976: Recordation of Affidavit of Assessment Work or Notice of Intention to Hold Mining Claim -- Mining Claims: Assessment Work

The Federal Land Policy and Management Act of 1976 requires that for each mining claim located prior to Oct. 21, 1976, the initial filing of evidence of assessment work or notice of intention to hold the claim must be made with both the BLM and the local office of the state where the notices of location were filed within 3 years of the enactment of FLPMA.

2. Notice: Generally -- Regulations: Generally -- Statutes  
All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations.

APPEARANCES: Stephen M. Ellis, Esq., Anchorage, Alaska, for appellants.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

Martin Slisco, Andrew Slisco, and Donna Foster appeal from the February 19, 1981, decision of the Alaska State Office, Bureau of Land Management (BLM), which declared their Bench Nos. 1-4 placer mining claims, F 59417 through F 59420, abandoned and void. The decision stated that appellants had failed to file by October 22, 1979, either an affidavit of assessment work for the preceding assessment year or a

notice of intention to hold the claims as required by section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976) and 43 CFR 3833.2-1.

In their statement of reasons for appeal, appellants point out that on September 27, 1979, when they filed copies of their location notices with BLM, they also filed an affidavit of annual labor for the assessment year ending September 1, 1974. This affidavit was filed with the Fairbanks Recorder's Office on October 9, 1974. Appellants argue that they should not be penalized for filing a defective document, particularly since they had requested that BLM notify them of any deficiencies. Alternatively, they state that their filing should at least be construed as a notice of intent to hold the claim. They indicate that "no valid adverse claim" would be affected by a decision reinstating their claims.

The file also contains a letter to the Board from Pelham L. Jackson, who identified himself as a colocator of adverse claims. He asserts that appellants did no assessment work in 1979 and did not file anything with either BLM or the Fairbanks Recorder's Office that year. Jackson did not request, nor does the Board hereby grant, status as an intervenor.

[1] Section 314(a) of FLPMA requires:

The owner of an unpatented lode or placer mining claim located prior to the date of this Act shall, within the three-year period following the date of the approval of this Act and prior to December 31 of each year thereafter, file the instrument required by paragraphs (1) and (2) of this subsection. \* \* \*

(1) File for record in the office where the location notice or certificate is recorded either a notice of intention to hold the mining claim (including but not limited to such notices as are provided by law to be filed when there has been a suspension or deferment of annual assessment work), an affidavit of assessment work performed thereon, or a detailed report provided by the Act of September 2, 1958 (72 Stat. 1701; 30 U.S.C. 28-1), relating thereto.

(2) File in the office of the Bureau designated by the Secretary a copy of the official record of the instrument filed or recorded pursuant to paragraph (1) of this subsection, including a description of the location of the mining claim sufficient to locate the claimed lands on the ground.

43 U.S.C. § 1744(a) (1976).

Thus, this statute required that between October 21, 1976, when the Act was approved, and October 21, 1979 (and prior to December 31, of each subsequent year), holders of pre-FLPMA mining claims must file

(1) Evidence of assessment work or notice of intention to hold these claims in the local recording office of the State, and (2) a copy of that same document in the proper BLM office. In other words, the 3-year time period of section 314(a) applies both to filing in the local office as well as filing with BLM. The appellants did not submit to BLM any document which was filed in the Fairbanks Recorder's Office within the 3-year statutory time limit. Therefore, for this reason, appellants failed to comply with the terms of FLPMA, 43 U.S.C. § 1744(a) (1976). <sup>1/</sup> Insofar as appellants' request that we treat this assessment work affidavit as a notice of intention is concerned, we merely point out that a notice of intention must also be filed in the local offices of the State and this was not done here.

[2] Failure to comply with these statutory requirements must result in a conclusive finding that the claims have been abandoned. 43 U.S.C. § 1744(c) (1976); 43 CFR 3833.4. This Board has no authority to excuse lack of compliance. Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981). Responsibility for compliance with the recordation requirements of FLPMA rests with the appellants. Dave R. Newman, 57 IBLA 23 (1981). Persons who deal with the Government are presumed to have knowledge of the law and duly promulgated regulations. 44 U.S.C. §§ 1507, 1510 (1976); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the Alaska State Office is affirmed as modified.

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James L. Burski  
Administrative Judge

We concur:

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Edward W. Stuebing  
Administrative Judge

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Douglas E. Henriques  
Administrative Judge

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<sup>1/</sup> As our decision in Harvey A. Clifton, 60 IBLA 29 (1981), indicates, to the extent that the State office decision was predicated on a view that appellants were required to file proof of assessment work for the 1979 assessment year, the decision was in error.

